

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 945 - HB 1222

March 9, 2013

SUMMARY OF BILL: Authorizes county clerks and designated city officials to administer and collect the business tax, while retaining the option to let the Department of Revenue (DOR) continue to administer and collect the business tax, if appropriate resolutions are approved. Authorizes county clerks and designated city officials to charge a \$5.00 fee for collecting and recording business tax. Requires county clerks and designated officials to remit 15 percent of all business tax collections to DOR, except for collections derived from the \$5.00 fee authorized by the bill.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue – Net Impact –

Exceeds \$1,250,000/FY13-14

Exceeds \$2,500,000/FY14-15 and Subsequent Years

Decrease State Expenditures –

\$555,200/FY13-14/Department of Revenue

\$1,110,300/FY14-15 and Subsequent Years/Department of Revenue

Increase Local Revenue – Net Impact –

Exceeds \$1,250,000/FY13-14

Exceeds \$2,500,000/FY14-15 and Subsequent Years

Increase Local Expenditures –

Exceeds \$500,000/FY13-14/Permissive

Exceeds \$1,000,000/FY14-15 and Subsequent Years/Permissive

Assumptions:

- The business tax is a variable rate tax on gross sales depending on taxpayer classification and whether the taxpayer is a retailer or wholesaler.
- On January 1, 2010, DOR began administering and collecting the business tax pursuant to Public Acts 2009, Public Chapter 530. Prior to January 1, 2010, the majority of business tax collections were administered and collected by local government entities.
- The last two complete fiscal years under the administration of local government entities were FY07-08 and FY08-09. DOR has administered the tax for the last two complete fiscal years (FY10-11 and FY11-12).

- According to information available from DOR, total business tax collections were \$330,065,373 in FY07-08, and \$316,704,969 in FY08-09, during which the tax was under local government's administration.
- Total business tax collections were \$284,244,600 in FY10-11, and \$300,012,871 in FY11-12, during which the tax was under DOR's administration.
- Based on Fiscal Review Committee staff's estimates for the state portion of the business tax under current law, total business tax collections are estimated to be \$319,047,600 in FY12-13, and \$333,333,300 in FY13-14.
- Based on the historical business tax collections, forecasts for the future business tax collections under current law, analysis of the patterns of historical collections and forecasts of other taxes administered by DOR, and analysis of various national economic variables, it is estimated that authorizing county clerks and designated city officials to administer and collect the tax will not result in a significant impact to the amount of taxes collected, excluding the amounts collected pursuant to field audit assessments.
- Tax collections from field audit assessments are currently apportioned 100 percent to the state. Upon passage of this bill, 100 percent of field audit assessments will remain with local government. The recurring decrease in state tax collections is estimated to exceed \$2,500,000.
- The total amount that will be collected from the \$5.00 fee on collections is not quantifiable due to multiple factors, including the number of local governments that opt to administer and collect the business tax, the number of businesses from which such tax is collected and the number of such businesses that would pay the annual minimum tax due and be exempt from the \$5.00 fee.
- The recurring increase in local tax collections resulting from local field audits and the additional \$5.00 fee, authorized by this bill, is estimated to exceed \$2,500,000.
- Any changes to apportionment rates of the total tax collections, including remitting 15 percent of all business tax collections to DOR, are estimated to result in a not significant impact on the percentage of collections remitted to the state and local government.
- According to DOR, authorizing county clerks and designated city officials to administer and collect the tax would result in a recurring decrease in state expenditures of approximately \$1,110,300.
- The permissive recurring increase in local government expenditures as a result of administering and collecting the business tax is estimated to exceed \$1,000,000.
- This bill has an effective date of January 1, 2014. As a result, the first-year (FY13-14) impact is estimated to be 50 percent of the recurring impact.

**Article II, Section 24 of the Tennessee Constitution provides that: No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a more compact, stylized manner, followed by "D." and "Geise".

Lucian D. Geise, Executive Director

/bos